

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT INDIANA  
FORT WAYNE DIVISION**

UNITED STATES OF AMERICA

v.

PEDRO GARZA

CAUSE NO.: 1:12-CR-88-TLS

**OPINION AND ORDER**

The Defendant, Pedro Garza, seeks permission from this Court to proceed under 28 U.S.C. § 2255 [ECF No. 179]. The Defendant’s previous Motion to Correct Sentence Under 28 U.S.C. § 2255 [ECF No. 165] was withdrawn when the Defendant determined that it would be futile for him to continue with his collateral attack after the Supreme Court decided, in *Beckles v. United States*, 137 S. Ct. 886 (2017), that the United States Sentencing Guidelines are not subject to due process vagueness challenges.

The Defendant may not file a second or successive habeas petitions unless he first obtains certification to do so from the court of appeals. *See* 28 U.S.C. § 2255(h) (providing that a “second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals”); *Holt v. United States*, 843 F.3d 720, 723 (7th Cir. 2016) (stating that “Section 2255(h) permits a *court of appeals* to authorize a successive collateral attack” (emphasis added)); *Harris v. Cotton*, 296 F.3d 578, 579 (7th Cir. 2002) (noting that it is the court of appeals rather than that of the district court that must grant the permission to file a second or successive petition for habeas corpus); *see also Vitrano v. United States*, 643 F.3d 229, 233 (7th Cir. 2011) (“A § 2255 motion need not be adjudicated on the merits to ‘count’ as a prisoner’s first motion for AEDPA purposes.”) (citing *Felder v. McVicar*, 113 F.3d 696, 698 (7th Cir. 1997)).

Based on the foregoing, the Motions seeking permission from this Court [ECF No. 177 (Spanish version), ECF No. 179 (English version)] are DISMISSED as filed in the wrong court.

SO ORDERED on December 10, 2018.

s/ Theresa L. Springmann  
CHIEF JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT